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SENATE BILL 258

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Steve Komadina

AN ACT

RELATING TO HIGHWAYS; AMENDING THE HIGHWAY BEAUTIFICATION ACT
TO ALLOW COUNTIES AND MUNICIPALITIES TO ACQUIRE OUTDOOR
ADVERTISING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 67-12-6 NMSA 1978 (being Laws 1966,
Chapter 65, Section 6, as amended) is amended to read:

"67-12-6. OUTDOOR ADVERTISING--ACQUISITION--
COMPENSATION--REMOVAL. --

A. The commission or a county or municipality may
acquire by agreement or condemnation all outdoor advertising
and property rights pertaining thereto. The commission or a
county or municipality may [sø] remove the outdoor advertising
if at the time of the acquisition:

(1) the outdoor advertising bears the

underscored material = new
[bracketed material] = delete

1 requisite permit, if any;

2 (2) the owner of the outdoor advertising has
3 timely paid all permit fees, past and present, if any, required
4 in connection with the erection and maintenance thereof;

5 (3) the outdoor advertising conforms with
6 standards, specifications and requirements contained in
7 regulations promulgated by the commission; and

8 (4) the outdoor advertising was lawfully in
9 existence on the effective date of the Highway Beautification
10 Act and has continued to so exist, or was lawfully erected
11 subsequent to the effective date. For the purpose of this
12 paragraph, any outdoor advertising in existence on or after
13 November 6, 1978 that was erected prior to November 18, 1971
14 under any permit or conditional permit issued by the state
15 highway and transportation department shall be considered to be
16 lawfully erected. For all purposes, the effective date of the
17 [~~New Mexico~~] Highway Beautification Act shall be March 15,
18 1971.

19 The condemnation shall be exercised by eminent domain in
20 the manner provided by law, and each interested party shall
21 have the right to a separate trial as to the respective
22 interests involved.

23 B. [~~Whenever~~] When outdoor advertising and property
24 rights pertaining thereto are acquired by the commission or a
25 county or municipality pursuant to Subsection A of this

. 142636. 1

underscored material = new
[bracketed material] = delete

1 section:

2 (1) the owner of the outdoor advertising shall
3 be paid just compensation by the commission or a county or
4 municipality equal to the fair market value of the outdoor
5 advertising ~~[which]~~ that is to be deemed a trade fixture; and

6 (2) the owner of the land upon which the
7 outdoor advertising is located shall be paid just compensation
8 equal to the value of his right to have the outdoor advertising
9 erected and maintained on the land.

10 C. The right to compensation as provided in
11 Subsection B of this section shall not be affected solely by
12 the failure of ~~[any]~~ the outdoor advertising to conform to
13 standards, specifications and requirements contained in
14 regulations promulgated by the commission relating to ~~[any]~~ a
15 subject other than permits or permit fees unless the commission
16 has given notice by certified mail to the owner of the land
17 upon which the outdoor advertising is located, and to the owner
18 of the outdoor advertising if his name appears thereon,
19 advising of the failure to conform and ordering that the
20 outdoor advertising be made to ~~[so]~~ conform or be removed
21 within thirty days from the date of ~~[such]~~ the notice. If the
22 failure to conform is corrected within the thirty days, then
23 the failure to conform shall be deemed cured for all purposes;
24 if, however, the defect is not corrected within the thirty
25 days, the commission or a county or municipality may thereafter

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[bracketed material] = delete

1 remove the outdoor advertising at the expense of the owner of
2 the outdoor advertising without [~~any~~] compensation
3 [~~whatsoever~~]. This subsection specifically does not apply [~~in~~
4 ~~any manner~~] to permit fees, and [~~no~~] notice [~~whatsoever~~] shall
5 not be required in connection with the permit fees.

6 D. Compensation shall not include [~~any~~] an element
7 of damages [~~which~~] that is not subject to federal aid
8 participation under the federal Highway Beautification Act of
9 1965, as has been or may be hereafter amended or superseded, or
10 otherwise.

11 E. [~~In any case where~~] When outdoor advertising has
12 been removed under the Highway Beautification Act, and the
13 removal is compensable under that act, but the commission or
14 the county or municipality has not paid just compensation or
15 instituted condemnation proceedings therefor, the owner of the
16 outdoor advertising, or the owner of the land upon which it is
17 located, or both, may bring actions against the commission or
18 the county or municipality as provided in Section [~~42-1-23~~]
19 42A-1-29 NMSA 1978, for recovery of [~~such~~] the compensation.

20 F. [~~All~~] Outdoor advertising other than that
21 meeting [~~all~~] the requirements of Subsection A of this section
22 is declared to be a public nuisance and in contravention of
23 law. [~~Therefore and otherwise~~] The commission or a county or
24 municipality may remove or cause the removal of [~~all~~] outdoor
25 advertising other than that meeting [~~all~~] the requirements of

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[bracketed material] = delete

1 Subsection A of this section, [~~which~~] and the removal shall be
2 without [~~any~~] compensation [~~whatsoever~~] and at the expense of
3 the owner of the outdoor advertising.

4 G. Removal of outdoor advertising by or at the
5 request of the commission, a county or a municipality or its
6 agents or employees in compliance with the Highway
7 Beautification Act does not subject [~~such~~] the removal or the
8 persons performing it to criminal prosecution or give rise to
9 [~~any~~] liability to [~~any~~] a person or entity for the injury,
10 loss or destruction of [~~any~~] property [~~which~~] that occurs in
11 connection with the removal."